

Filed on behalf of: Par Pharmaceutical, Inc.

Filed: September 22, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PAR PHARMACEUTICAL, INC.

Petitioner

v.

NOVARTIS AG

Patent Owner

Case IPR2016-01479

U.S. Patent No. 9,006,224

Before LORA M. GREEN, CHRISTOPHER L. CRUMBLEY, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

PETITIONER'S RESPONSE TO PATENT OWNER'S SUR-REPLY

Pursuant to the Board's email of September 20, 2017 (Ex. 1127), Petitioner Par Pharmaceutical, Inc. ("Par") submits this one-page table in response to Novartis's Sur-Reply (Paper 26).

Novartis's Alleged "New" Argument (using Novartis's numbering)	Citation to Record Where Argument Was Previously Presented or Responds to Argument Raised by Novartis in Response
(1) CA20948 is a model for NETs (citing Pet. 32, Reply 17)	Pet. 43; Ex. 1003, ¶¶ 112, 117, 137
(2) Citation to AR42J cell line as a model for NETs (citing Reply 17-18)	POR 30-33, 42-43; Ex. 2041, ¶¶ 131, 132, 135, 136; Ex. 1070, 62:2-64:19, 68:21-70:3
(3) Alleged new combination of Oberg 2004 and Duran (citing Pet. 4, Reply 4, 13-16, 18-20)	<p>POR 29-30, 42-46, 48-52; Ex. 2041 ¶¶ 214-217 (no reasonable expectation of success)</p> <p>POR 15-21 (role of mTOR inhibitors in NETs uncertain); Pet. 29-32, 36-37</p>
(4) Discussion of Duran's government funding and support for connection between NETs and mTOR	POR 15-21, 48-52; Ex. 2041, ¶¶ 66-99, 212-219
(5) Citation to <i>Merck & Co. v. Teva Pharm. USA, Inc.</i> , 395 F.3d 1364 (Fed. Cir. 2005)	No response necessary
(6) Citation to the '224 specification and Exs. 1123 and 1124 characterizing class of mTOR inhibitors	<p>Pet. 22-25, 27-28, Ex. 1003, ¶¶ 75-78, 86-87, 90-92</p> <p>POR 15-18, 28; Ex. 2041, ¶¶ 220-223, 229-239</p>
(7) Prior cytotoxic chemotherapy is irrelevant	No response necessary
(8) Identification of exhibits not explicitly cited in the Reply	No response necessary

Case IPR2016-01479
U.S. Patent No. 9,006,224

Dated: September 22, 2017

Respectfully submitted,

By: /Daniel G. Brown/

Daniel G. Brown (Reg. No. 54,005)
daniel.brown@lw.com
Latham & Watkins LLP
885 Third Avenue
New York, NY 10022-4834
212.906.1200; 212.751.4864 (Fax)

*Counsel for Petitioner Par
Pharmaceutical, Inc.*

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 22nd day of September, 2017, a copy of **Petitioner's Response to Patent Owner's Sur-reply** was served by electronic mail on Patent Owner's lead and backup counsel at the following email addresses:

Nicholas N. Kallas (Reg. No. 31,530)
Raymond R. Mandra (Reg. No. 34,382)
Charlotte Jacobsen (*pro hac vice*)
Fitzpatrick, Cella, Harper & Scinto
1290 Avenue of the Americas
New York, NY 10104-3800
ZortressAfinitorIPR@fchs.com

By: /Daniel G. Brown/

Daniel G. Brown (Reg. No. 54,005)
daniel.brown@lw.com
Latham & Watkins LLP
885 Third Avenue
New York, NY 10022-4834
212.906.1200; 212.751.4864 (Fax)

*Counsel for Petitioner Par
Pharmaceutical, Inc.*